

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

DEREK J. TANKSLEY,)	
)	
Plaintiff,)	
)	
v.)	No. 2:21-cv-00125-JPH-DLP
)	
JAMES MOORE Officer,)	
FRANK NEWKIRK, JR.,)	
DUSTIN HOUCHIN Washington County)	
Prosecutor,)	
)	
Defendants.)	

ORDER DENYING MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

Plaintiff, Derek Tanksley, has filed a motion for leave to proceed *in forma pauperis*. Dkt. [8]. Because Mr. Tanksley is a prisoner, this motion is governed by 28 U.S.C. § 1915(g). "In no event shall a prisoner bring a civil action" *in forma pauperis* if he has, "on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted." *Id.* An exception applies if the plaintiff "is under imminent danger of serious physical injury." *Id.*

In his motion, Mr. Tanksley indicates that he has previously filed at least two lawsuits in this district. Dkt. 8 at 3. One of those cases, filed while Mr. Tanksley was incarcerated at the Washington County Jail, was dismissed for failure to state a claim. *Tanksley v. Washington County et al.*, No. 4:19-cv-48-

RLY-DML (Apr. 29, 2019). Mr. Tanksley has also accumulated two additional "strikes" for purposes of § 1915(g) and is therefore ineligible to proceed *in forma pauperis*. The Court notifies Mr. Tanksley that it has relied on the following cases in finding that he has struck out¹:

- *Tanksley v. Washington County, et al.*, No. 4:19-cv-48-RLY-DML, dkt. 7 (S.D. Ind. Apr. 29, 2019) ("This action is dismissed for failure to state a claim.").
- *Tanksley v. Washington County Itself, et al.*, No. 4:18-cv-153-SEB-DML, dkt. 10 (S.D. Ind. Nov. 5, 2018) ("Therefore, this action is properly dismissed for failure to state a claim upon which relief can be granted.").
- *Tanksley v. Moore, et al.*, No. 2:19-cv-555-JRS-DLP, dkt. 11 (S.D. Ind. Feb. 12, 2020) ("This action is dismissed for failure to state a claim.").

Having accumulated three strikes, Mr. Tanksley may not proceed without prepaying the filing fee—unless he is under imminent danger of serious physical injury. Mr. Tanksley has not attempted to show an imminent danger of serious physical injury, so his motion for leave to proceed *in forma pauperis* is **DENIED**. Dkt. [8].

Mr. Tanksley **shall have** through **May 26, 2021**, to pay the \$402.00 filing fee or demonstrate an imminent danger of serious physical injury. If Mr. Tanksley fails to do so by the deadline, his case will be dismissed without prejudice.

SO ORDERED.

Date: 4/26/2021



James Patrick Hanlon
United States District Judge
Southern District of Indiana

¹ Mr. Tanksley is reminded that these cases were all dismissed with prejudice, which "bars [him] from filing the claim[s] again in this court." *Perdue v. Carlos*, No. 2:10-cv-35, 2011 WL 1792843, at *7 (N.D. Ind. May 11, 2011).

Distribution:

DEREK J. TANKSLEY

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